

Eliot A. Adelson (SBN 205284)
James Maxwell Cooper (SBN 284054)
KIRKLAND & ELLIS LLP
555 California Street, 27th Floor
San Francisco, CA 94104
Telephone: (415) 439-1400
Facsimile: (415) 439-1500
Email: eadelson@kirkland.com
Email: max.cooper@kirkland.com

James H. Mutchnik, P.C. (*pro hac vice*)
Barack Echols (*pro hac vice*)
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Telephone: (312) 862-2000
Facsimile: (312) 862-2200
Email: jmutchnik@kirkland.com
Email: bechols@kirkland.com

Attorneys for Defendants
HITACHI DISPLAYS, LTD. (n/k/a JAPAN
DISPLAY INC.), HITACHI AMERICA, LTD.,
AND HITACHI ELECTRONIC DEVICES
(USA), INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

IN RE: CATHODE RAY TUBE (CRT)
ANTITRUST LITIGATION

Case No. Master File No. 3:07-cv-05944-SC
MDL NO. 1917

This Document Relates to:

All Indirect Purchaser Actions

*Electrograph Systems, Inc., et al. v. Hitachi,
Ltd., et al.*, No. 3:11-cv-01656-SC;

*Alfred H. Siegel as Trustee of the Circuit City
Stores, Inc. Liquidating Trust v. Hitachi, Ltd., et
al.*, No. 3:11-cv-05502-SC;

Best Buy Co., Inc., et al. v. Hitachi, Ltd., et al.,
No. 3:11-cv-05513-SC;

**DECLARATION OF ELIOT A.
ADELSON IN SUPPORT OF THE
ADMINISTRATIVE MOTION TO FILE
UNDER SEAL PURSUANT TO CIVIL
LOCAL RULES 79-59(d) AND 7-11 RE
HITACHI PARTIES' REPLY TO
MOTION FOR SUMMARY JUDGMENT
BASED UPON THE LACK OF
EVIDENCE OF PARTICIPATION IN
THE ALLEGED CONSPIRACY**

1 *Sears, Roebuck and Co. and Kmart Corp. v.*
2 *Chunghwa Picture Tubes, Ltd.*, No. 3:11-cv-
05514-SC

3 *Interbond Corporation of America, d/b/a*
4 *BrandsMart USA v. Hitachi, et al.*,
5 No. 3:11-cv-06275-SC;

6 *Office Depot, Inc. v. Hitachi, Ltd., et al.*,
7 No. 3:11-cv-06276-SC;

8 *CompuCom Systems, Inc. v. Hitachi, Ltd.,*
9 *et al.*, No. 3:11-cv-06396-SC;

10 *Costco Wholesale Corporation v. Hitachi,*
11 *Ltd., et al.*, No. 3:11-cv-06397-SC;

12 *P.C. Richard & Son Long Island Corporation, et*
13 *al. v. Hitachi, Ltd., et al.*, No. 3:12-cv-02648-SC;

14 *Schultze Agency Services, LLC on behalf of*
15 *Tweeter OPCO, LLC and Tweeter Newco, LLC v.*
16 *Hitachi, Ltd., et al.*, No. 3:12-cv-02649-SC;

17 *Tech Data Corporation, et al. v. Hitachi,*
18 *Ltd., et al.*, No. 3:13-cv-00157-SC

1 I, Eliot A. Adelson, declare as follows:

2 1. I am an attorney licensed to practice in the State of California and the Northern
3 District of California. I am a partner with the firm of Kirkland & Ellis LLP, and counsel for Hitachi
4 America, Ltd., Hitachi Displays, Ltd. (n/k/a Japan Display Inc.), and Hitachi Electronic Devices
5 (USA), Inc. (collectively, the "Hitachi Parties"). Except for those matters stated on information and
6 belief, about which I am informed and which I believe to be true, I have personal knowledge of the
7 facts stated herein and, if called as a witness, I could and would competently testify thereto.

8 2. I submit this declaration in support of Hitachi Parties' Administrative Motion to File
9 Under Seal Pursuant to Civil Local Rules 79-5(d) and 7-11. I make this declaration pursuant to Civil
10 Local Rule 79-5(d) to establish that certain documents containing Confidential and Highly
11 Confidential information and submitted to the Court in connection with the Hitachi Parties' Reply to
12 Motion for Summary Judgment Based Upon the Lack of Evidence of Participation in the Alleged
13 Conspiracy ("Non-Participation Reply") are sealable.

14 3. On June 18, 2008, the Court approved a "Stipulated Protective Order" in this matter
15 (Dkt. 306). On January 23, 2015, the Hitachi Parties filed an Administrative Motion to Seal, and
16 lodged conditionally under seal, the following documents, or portions thereof, pursuant to Civil
17 Local Rules 7-11 and 79-5(d):

18 a. Portions of the Non-Participation Reply that contain quotations or information from
19 documents and/or deposition testimony that certain Plaintiffs and Defendants have
20 designated "Confidential" or "Highly Confidential"; and

21 b. Exhibits 27-33 attached to the Reply Declaration of Eliot Adelson in Support of the
22 Hitachi Parties' Reply to Motion for Summary Judgment Based Upon the Lack of
23 Evidence Supporting Participation in the Alleged Conspiracy ("Adelson
24 Declaration") which quote from, summarize, or are documents or deposition
25 testimony that the Hitachi Parties have designated "Confidential" or "Highly
26 Confidential."

27 4. Pursuant to Civil Local Rule 79-5(d), I make this declaration on behalf of the Hitachi
28 Parties to provide the basis for the Court to maintain under seal certain documents and information

1 designated by the Hitachi Parties as “Confidential” or “Highly Confidential” pursuant to the
2 Stipulated Protective Order, and all references to those documents and information in the Non-
3 Participation Reply.

4 5. Exhibit 27 to Adelson Declaration is a true and correct copy of excerpts from the
5 deposition of Thomas Schmitt, taken on July 11, 2013 designated by Hitachi Defendants as “Highly
6 Confidential.”

7 6. Exhibit 28 to the Adelson Declaration is a true and correct copy of excerpts from the
8 deposition of Kazumasa Hirai, taken on February 4, 2014 designated by Hitachi Defendants as
9 “Highly Confidential.”

10 7. Exhibit 29 to the Adelson Declaration is a true and correct copy of excerpts from the
11 deposition of L. Thomas Heiser, taken on March 18 and 19, 2014 designated by Hitachi Defendants
12 as “Highly Confidential.”

13 8. Exhibit 30 to the Adelson Declaration is a true and correct copy of excerpts from the
14 deposition of Noboru Toyama, taken on March 11, 2014 designated by Hitachi Defendants as
15 “Highly Confidential.”

16 9. Exhibit 31 to the Adelson Declaration is a true and correct copy of document
17 identification numbers HDP-CRT00056564 - HDP-CRT00056594 designated by Hitachi Defendants
18 as “Highly Confidential.”

19 10. Exhibit 32 to the Adelson Declaration is a true and correct copy of document
20 identification numbers HDP-CRT00030942 - HDP-CRT00030944 designated by Hitachi Defendants
21 as “Confidential.”

22 11. Exhibit 33 to the Adelson Declaration is a true and correct copy of excerpts from the
23 deposition of Dr. Kenneth G. Elzinga, taken on October 15, 2014 designated by Defendants as
24 “Highly Confidential.”

25 12. Upon information and belief, the documents contained in Exhibits 27-33 contain
26 confidential, nonpublic, proprietary and highly sensitive business information about the Hitachi
27 Parties’ sales processes, business practices, internal practices, negotiating tactics, confidential
28 business and supply agreements and/or competitive positions. These documents describe

1 relationships with companies that remain important to the Hitachi Parties' competitive position. I am
2 informed and believe that this is sensitive information and public disclosure of this information
3 presents a risk of undermining the Hitachi Parties' business relationships, would cause it harm with
4 respect to its competitors and customers, and would put the Hitachi Parties at a competitive
5 disadvantage.

6 13. The highlighted portions of the Non-Participation Reply quote from, describe, or
7 contain documents or information designated as "Confidential" or "Highly Confidential" by the
8 Hitachi Parties pursuant to the Stipulated Protective Order, including Exhibits 27-32 to the Adelson
9 Declaration. I understand that the Hitachi Parties consider any statements in the Non-Participation
10 Reply purporting to summarize the exhibits or any other documents or information designated as
11 "Confidential" or "Highly Confidential" by the Hitachi Parties confidential and proprietary. I am
12 informed and believe that the Hitachi Parties have taken reasonable steps to preserve the
13 confidentiality of information of the type contained, identified, or cited to in Exhibits 27-32, and
14 referenced in the Non-Participation Reply.

15 14. Exhibit 33 to the Adelson Declaration is a document that has been designated by
16 certain Plaintiffs and Defendants as "Confidential" or "Highly Confidential" under the terms of the
17 Stipulated Protective Order entered in this case. The Hitachi Parties seek to submit this material
18 under seal in good faith in order to comply with the Protective Order and this Court's Local Rules.
19 Because these Plaintiffs and Defendants have designated content in these documents as
20 "Confidential" or "Highly Confidential," it is their burden to establish that the designated material is
21 in fact sealable. Civ. L. R. 79-5(d); *see Kamakana v. City of Honolulu*, 447 F.3d 1172, 1178-1180
22 (9th Cir. 2006). The Hitachi Parties respectfully submit this administrative motion pursuant to the
23 Protective Order and Civil Local Rule 79-5, and, through this submission, hereby notifies the
24 Designating Parties of their burden to establish that the designated material is properly sealable. *See*
25 *Kamakana*, 447 F.3d at 1178-1180.

26 ///

27 ///

28 ///

1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct.

3
4 DATED: January 23, 2015

By: /s/ Eliot A. Adelson

5 Eliot A. Adelson
6 James Maxwell Cooper
7 KIRKLAND & ELLIS LLP
8 555 California Street, 27th Floor
9 San Francisco, CA 94104
Telephone: (415) 439-1400
Facsimile: (415) 439-1500
Email: eadelson@kirkland.com
Email: max.cooper@kirkland.com

10 Attorneys for Defendants
11 HITACHI DISPLAYS, LTD. (n/k/a JAPAN
12 DISPLAY INC.), HITACHI AMERICA,
13 LTD., AND HITACHI ELECTRONIC
14 DEVICES (USA), INC.
15
16
17
18
19
20
21
22
23
24
25
26
27
28